

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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| CHRISTIAN ROSS HOWARD, |) |
| Plaintiff, |) |
| v. |) |
| GERARD MILL EQUIPMENT, INC., |) |
| Defendant. |) |

OPINION

COHILL, D.J.

Plaintiff Christian Ross Howard filed this complaint alleging claims of negligence, strict liability, breach of implied warranty of merchantability, and breach of implied warranty of fitness against Gerard Mill Equipment, Inc. Defendant designed, manufactured, assembled, distributed, sold and installed equipment used in lumber mill operations.

The complaint, based on diversity jurisdiction under 28 U.S.C. § 1332, was filed on July 20, 2004. Defendant failed to file an answer, and, at the Court's direction, Howard filed a motion for entry of a default judgment on March 15, 2006. Judgment by default was entered against the Defendant on March 16, 2006.

A hearing on damages was held before the undersigned on May 17, 2006. Michael Louik, Esquire appeared as counsel for the Plaintiff. Defendant did not appear.

Christian Howard is twenty-four years old. He testified that he was working as a lumber handler at Highland Forest Resources, Inc., in Marienville, Pennsylvania, when he was injured by defendant's equipment. He was attempting to clear a log jam in an area where a transfer chain and sprocket were located, and caught his left foot in the chain and sprocket. He suffered contusions, bruises, lacerations, and abrasions, and tore muscles, tissues, and ligaments. He also suffered shock, and his nervous system was impaired. (Compl. at ¶ 11).

Plaintiff's medical records are fully documented in Exhibit 1. Briefly, after his injury Howard was flown by helicopter to UPMC Presbyterian Hospital in Pittsburgh, where he remained

for eleven days. The first, second, and third toes of his left foot were amputated, and he underwent additional surgery as well. He returned to the hospital for skin grafts, and subsequently had physical therapy.

Plaintiff was off work from August 4, 2002 until February 11, 2003. He returned to work as a cook, and testified that his wages are roughly equivalent to what he was earning before the accident.

As a result of his injuries, Howard walks with a limp and continues to have balance problems and pain. He has weakness in the ankle and knee, and his health has been permanently impaired.

As itemized in Exhibit 2, we find that Plaintiff has established the following damages:

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| Helicopter Transport | \$ 9,689.00 |
| UPMC Presbyterian Hospital Costs | \$39,767.00 |
| UPMC Outpatient Surgery | \$11,860.25 |
| UPMC Physician Services | \$10,384.00 |
| Lost Wages | <u>\$ 4,072.77</u> |
| | \$75,773.02 |

In addition to the above-stated amount of damages, and mindful that Plaintiff's health has been permanently impaired, we will award Howard the sum of \$2,000,000 for pain and suffering.

An appropriate Order follows.

July 6, 2006
Date

Maurice B. Cohill, Jr.

Maurice B. Cohill, Jr.
Senior United States District Judge